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JUN 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 16, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Amendment of Table of FM Allotments
New Port Richey, Sarasota, and
Sebring, Florida
(MM Docket No. 93-65 / RM-6869)

Dear Ms. Searcy:

Submitted herewith for filing, on behalf of our client,
Roper Broadcasting, Inc., licensee of Radio Station WCAC(FM),
Sebring, Florida, are an original and five (5) copies of its

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BEFORE THE

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Federal Communications Commission

On June 1, 1993, WGUL-FM, Inc., licensee of Radio Station WGUL(FM), New Port Richey, Florida, filed its Comments and Counterproposal in this proceeding, requesting that either Channel 288C1 or, alternatively, Channel 288C2, be allotted to New Port Richey, Florida, in lieu of Channel 288C3, but that, in any event, if neither Channel 288C1 nor Channel 288C2 is allotted to New Port Richey, nonetheless, Channel 288C3 should be allotted to the community and that WGUL(FM)'s license should be modified accordingly. In order to accomplish the proposed allotment of Channel 288C1 or Channel 288C2 to New Port Richey, in accordance with the requirements of Section 73.207 of the Commission's Rules, WGUL-FM, Inc. proposed the substitution of Channel 289A or Channel 289C3 in lieu of Channel 288A in Sebring, Florida, and the modification of license of Radio Station WCAC(FM), Sebring, Florida, to specify operation on Channel 289C3 or Channel 289A in lieu of Channel 288A in Sebring.

On June 1, 1993, Roper filed its Comments and Counterproposal in this proceeding, in which it advised the Commission that it supported the channel substitution (i.e., Channel 289 for Channel 288) proposed for WCAC(FM) in WGUL-FM, Inc.'s Comments and Counterproposal; however, Roper proposed, in its Comments and Counterproposal, that Channel 289C3 be allotted to Sebring, Florida, instead of Channel 289A, and that WCAC(FM)'s license be modified to specify operations on Channel 289C3 in

Sebring, in lieu of Channel 288A. Roper demonstrated, in its Comments and Counterproposal, that the allotment of Channel 289C3 to Sebring, Florida, can be accomplished in accordance with the Commission's Rules and will meet all applicable separation requirements of Section 73.207 of the Commission's Rules with respect to all other stations and allotments.

In this regard, as noted by WGUL-FM, Inc., in its Petition For Rulemaking herein, in order to assure compliance with all required mileage separations, relocation of WCAC(FM) to Channel 289A, or to Channel 289C3, would necessitate modification of the license of Radio Station WWOJ(FM) in Avon Park, Florida, so that the latter radio station would no longer operate on Channel 292A in Avon Park.

As noted in the technical portion of WGUL's Petition For Rulemaking in this proceeding, the Commission proposed in MM Docket No. 87-455 that the WWOJ(FM) channel assignment in Avon Park, Florida, be changed from Channel 292A to Channel 256A. As a consequence of the foregoing, it was unnecessary for WGUL to specifically propose, in its rulemaking petition, that the license of Radio Station WWOJ(FM), Avon Park, Florida, be modified so as to specify operations on Channel 256A in Avon Park, in lieu of Channel 292A in that community, since the Commission had already specifically proposed such a change in MM Docket No. 87-455. Hence, since it was unnecessary to request

allotment of Channel 256A to Avon Park and modification of the license of WWOJ(FM) to specify operations on that channel, and since one or more of the parties in MM Docket No. 87-455 had already proposed such changes and were obligated, under Commission policy, to represent that they would reimburse the licensee of WWOJ(FM) for the proposed change in the station's channel, it was unnecessary for WGUL to specifically propose that it would reimburse the licensee of WWOJ(FM) for its reasonable costs in switching channel from Channel 292A to Channel 256A in

Unfortunately, the Commission's plan to change WWOJ's channel from Channel 292A to Channel 256A has not yet been implemented. On March 29, 1993, the commission released its Report and Order in MM Docket No. 92-195, 8 FCC Rcd 2197 (Mass Media Bureau 1993), involving FM channel allotments in Beverly Hills, Chiefland, Holiday, Micanopy and Sarasota, Florida. In Paragraph 10 of that Report and Order in the Beverly Hills proceeding, the Mass Media Bureau appeared to suggest that, in light of the grant of channel upgrades in the Beverly Hills proceeding, a number of appeals or reconsideration requests

More importantly, on April 19, 1993, Highlands Media Company, Inc., licensee of WWOJ(FM), Avon Park, Florida, filed supplementary Comments in MM Docket No. 87-455. Highlands Media Company, Inc., therein made clear that, notwithstanding the Bureau's actions in the Beverly Hills, Florida proceeding, it still desired the substitution of Channel 256A in lieu of Channel 292A in Avon Park and the modification of WWOJ(FM)'s license to specify operations on Channel 256A. Highlands Media Company, Inc., demonstrated in its Comments that the Avon Park channel substitution has substantial independent public interest value and deserves consideration on its own merits. Importantly, Highlands Media Company, Inc., emphasized in its April 19, 1993 Comments, as follows:

"Highlands understands that, given the Commission action in Docket 92-195 [i.e., the Beverly Hills proceeding] the Avon Park channel substitution is no longer a pre-condition for the Holiday upgrade. Highlands therefore agrees not to invoke the Commission's processes under Circleville, Ohio, 8 FCC 2d 159 (1967), to seek reimbursement of its expenses for changing to Channel 256A."

Comments of Highlands Media Company, Inc., at 3 n.4.

In light of the April 19, 1993 Comments of Highlands Media Company, Inc., in MM Docket No. 87-455, that rulemaking proceeding is not moot. Moreover, in light of the clear statement of Highlands Media Company, Inc., in its April 19, 1993 Comments in MM Docket No. 87-455 to the effect that it is willing to waive invocation of the Commission's reimbursement policy,

under Circleville, Ohio, supra, it is manifest that WGUL was not required, and is not required, to specifically propose substitution of Channel 256A for Channel 292A in Avon Park, nor is WGUL required (nor was it required) to propose to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in connection with such a channel change.

For similar reasons, Roper respectfully submits that, in light of the April 19, 1993 Comments of Highlands Media Company, Inc. in MM Docket No. 87-455, to the effect that it is willing to waive invocation of the Commission's reimbursement policy under Circleville, Ohio, Roper is not required to specifically propose substitution of Channel 256A for Channel 292A in Avon Park, nor is Roper required to propose to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in connection with such a channel change. Nonetheless, consistent with the procedures set forth in Brookville and Punxsutawney, Pennsylvania, 3 FCC Rcd 5555, 5556 (Mass Media Bureau 1988), Roper represented to the Commission in its Comments and Counterproposal in this proceeding, that, if the relief sought herein by Roper is granted by the Commission, and if the license of Radio Station WCAC(FM) is modified to specify operations on Channel 289C3 in Sebring, Florida, as proposed herein by Roper, and in the unlikely event that the Commission expressly rejects Roper's position that Roper is not obligated to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in

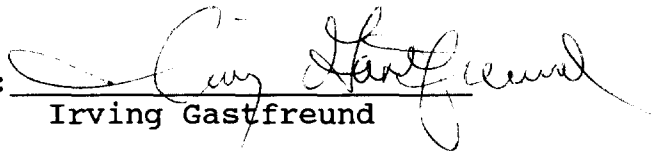
connection with the channel change from Channel 292A to Channel 256A in Avon Park, then, in such events, Roper would agree to reimburse the licensee of WWOJ(FM) for the reasonable expenses incurred by that licensee in effectuating the aforementioned channel change for WWOJ(FM) from Channel 292A to Channel 256A in Avon Park, consistent with the standards articulated by the Commission in Circleville, Ohio, 8 FCC 2d 159 (1967).

On or about June 1, 1993, Highlands Media Company, Inc. filed its own Comments in this proceeding, in which it reaffirmed that it is waiving its right to invoke the Commission's processes to seek expense reimbursement pursuant to Circleville, Ohio, 8 FCC 2d 159 (1967). In light of those Comments by Highlands Media Company, Inc. in this proceeding, and in light of the April 19, 1993 Comments of Highlands Media Company, Inc., in MM Docket No. 87-455, Roper wishes to take this opportunity to reaffirm its position that it is not required to specifically propose substitution of Channel 256A for Channel 292A in Avon Park, nor is Roper required to propose to reimburse the licensee of WWOJ(FM) for its reasonable costs incurred in connection with such a channel change. Accordingly, Roper hereby respectfully withdraws its representation, contained in its Comments and Counterproposal in this proceeding, that Roper would agree to reimburse the licensee of WWOJ(FM) for the reasonable expenses incurred by that licensee (i.e., Highlands Media Company, Inc.) in effectuating the channel change for WWOJ(FM) from Channel 292A

to Channel 256A in Avon Park, pursuant to Circleville, Ohio,
supra. As noted above, given Highlands Media Company, Inc.'s
filings in this proceeding and in MM Docket No. 87-455, Roper
respectfully submits that no such representation of reimbursement
is required, and, therefore, no such representation is being made
by Roper.

Respectfully submitted,

ROPER BROADCASTING, INC.

By: 
Irving Gastfreund

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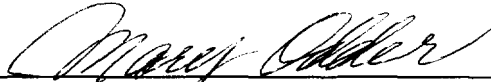
June 16, 1993

CERTIFICATE OF SERVICE

I, Mary Odder, a secretary in the law firm of Kaye, Scholer, Fierman, Hays & Handler, hereby certify that on this 16th day of June, 1993, have caused a copy of the foregoing "Reply Comments of Roper Broadcasting, Inc." to be sent via U.S. mail, postage prepaid, or be hand-delivered to the following:

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Chief, Allocations Branch

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Mary Odder

* Via Hand Delivery